

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

In re: BRIDGESTONE/FIRESTONE, INC.,
ATX, ATX II, and WILDERNESS TIRES
PRODUCTS LIABILITY LITIGATION

Master File No. IP 00-9373-C-B/S
MDL No. 1373
(centralized before Hon. Sarah Evans Barker,
Judge)

THIS DOCUMENT RELATES TO ALL
ACTIONS

ORDER STRIKING IMPROPER FILING

The Court, on its own initiative, now STRIKES “Defendants’ State Law Variations_Index,” filed by defendants Bridgestone/Firestone, Inc. and Ford Motor Company (here, collectively, “the defendants”) on April 3, 2001.

On April 2, 2001, the defendants filed a motion seeking leave to file a 95-page brief in opposition to the plaintiffs’ motion for class certification. (The Court’s page limit in this case is 50 pages. See Case Management Order dated January 30, 2001, paragraph II(F).) In seeking this leave, the defendants cited, among other things, the need to address “the multitude of variations in law.” The Court granted the defendants’ request, adding the admonition that “counsel should try to be reasonable here.”

On April 3, 2001, the defendants filed their 95-page “Memorandum in Opposition to Plaintiffs’ Motion for Class Certification, along with a two-inch thick “Evidentiary Materials Appendix.” On the same day, however, the defendants also filed an 81-page document they denominated “Defendants’

State Law Variations Appendix.” This submission is not an appendix at all, but simply an additional brief devoted to the “variations in law” issues that the defendants cited in support of their request to file their separate, oversized 95-page brief. The defendants did not seek leave to make this submission, let alone to exceed the page limit again. Counsel for the defendants (apparently hoping to bolster the “appendix” label) did not sign this brief, in violation of Fed. R. Civ. P. 11(a). Moreover, the Court has difficulty viewing this filing as anything other than a misleading attempt to circumvent limitations on briefing that the Court has already been quite liberal in setting and enforcing. Such conduct may violate Fed. R. Civ. P. 11(b).¹

The Court recognizes that this case involves numerous and complex issues that sometimes warrant substantial briefing, but the Court exhorts all counsel in this case to remain mindful of the virtues of brevity and succinct, non-repetitious argument. Also, although space-saving tactics like the use of seven-point footnotes merely tax the Court’s good nature (and eyesight), the Court will not tolerate subterfuge designed to evade the Court’s rules and orders.

It is so ORDERED this _____ day of May, 2001.

¹The Court is striking the submission because it violates the Court’s prior orders in this MDL regarding briefing, and not as a sanction for violation of Rule 11.

SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

Copy to:

Irwin B. Levin
Cohen & Malad
136 North Delaware Street
P O Box 627
Indianapolis, IN 46204

William E. Winingham
Wilson Kehoe & Winingham
2859 North Meridian Street
P.O. Box 1317
Indianapolis, IN 46206-1317

Randall Riggs
Locke Reynolds LLP
201 N. Illinois St., Suite 1000
P.O. Box 44961
Indianapolis, IN 46244-0961

Daniel P. Byron
McHale Cook & Welch Pc
320 N Meridian St
1100 Chamber of Commerce Bldg.
Indianapolis, IN 46204